



June 05, 2013

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Via Electronic and First Class Mail

National Freedom of Information Officer U.S. Environmental Protection Agency 1200 Pennsylvania Avenue, NW (2822T) Washington, DC 20460 hq.foia@epa.gov

RE: Public Records Request; Ractopamine

The Humane Society of the United States ("HSUS") requests the following public records pursuant to the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq.,

- all records created by, received by, under the authority of, or coming into the custody, control, or possession of the Environmental Protection Agency ("EPA") relating to any communications between the NPS/Department of the Interior ("DOI") and any other federal agency, including, but not limited to, the Food and Drug Administration ("FDA"), the U.S. Department of Agriculture ("USDA"), and the Fish and Wildlife Service ("FWS"), related to the animal drug Ractopamine Hydrochloride; and
- 2. all records created by, received by, under the authority of, or coming into the custody, control, or possession of the EPA that relate to FDA and the preparation of any Environmental Assessment ("EA"), Environmental Impact Statement ("EIS"), and/or Finding of No Significant Impact ("FONSI") associated with any approval by the FDA of Paylean Type A Medicated Article (Ractopamine Hydrocholoride) for use in swine feed, including all records related to any review of NPS of any relevant EA, EIS or FONSI.

The term "records" is used herein to mean anything denoted by the use of that word or its singular form in the text of FOIA. In particular, the term includes, but is not limited to, all reports; studies; presentations; graphic materials; videos; writings (including, but not limited to, handwritten, typed, electronic or otherwise produced, reproduced or stored memoranda, meeting notes and minutes, drafts and working papers, contracts, agreements, and technical proposals); communications (including recorded messages, electronic mails, written complaints or other communications, and notes and summarizes of conversations or interviews); and any other written, electronic or recorded records in the Agency's possession.

If you believe that any portion or portions of the requested records are exempt from required disclosure under the FOIA, please exercise your discretion in redacting such portion of the materials and disclosing all other relevant, non-exempt materials. For exempted materials, please also provide a full or partial denial letter and sufficient information to understand the basis for the denial. At a minimum, please include in this letter basic factual information regarding the denial, including the originator, date, length, and addresses of the withheld items; all explanations and justifications for the denial, including any direct statutory or regulatory references; and how each exemption applies to the withheld materials. In addition, if any information requested herein was, but is no longer, in EPA's possession or subject to its control, state whether it is (a) missing or lost, (b) has been destroyed, (c) has been transferred voluntarily or involuntarily to others, or (d) otherwise disposed of, and, in each instance, explain the circumstances surrounding and authorization for such disposal, as well as any relevant date or dates.

Request for a Fee Waiver

Pursuant to federal law, HSUS requests that the NPS waive the fee that it would otherwise charge for the search and production of the records requested above. FOIA dictates that requested be provided without charge "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552(a)(4)(A)(iii); see also, 40 C.F.R. § 2.107(l)(2)(i)-(iv). The requested disclosure would meet both of those requirements.

First, the disclosure requested here would be "likely to contribute significantly to public understanding of the operations or activities of the government" because the subject matter of the requested records specifically concerns identifiable activities of the government, namely the adherence of agencies with the National Environmental Policy Act ("NEPA") in relation to the approval of new animal drugs. See 5 U.S.C. § 552(a)(4)(A)(iii). The HSUS undeniably has the ability to contribute to the public's understanding of federal agencies' operations as well as their policies relating to listed species in captivity due to its size and proven ability to disseminate information to a large segment of the public.

The HSUS is a nonprofit organization with 11 million members and constituents. Combined with its long standing dedication and ongoing efforts to promote the humane care and treatment and conservation of threatened and endangered species, the HSUS is particularly well suited to distribute information of national import to concerned citizens and others throughout the country. In fact, the HSUS routinely distributes information, press releases, reports, and copies of original documents to members of the media to generate articles to inform the public. The HSUS also routinely distributes, at no charge, its own information and information obtained from other sources to anyone requesting such information, including the public, media, students, and scientists. As a result, the HSUS is well positioned to ensure that the disclosed information will contribute significantly to the public's understanding of the operations and activities of the government as they relate to the adherence of agencies with the NEPA in relation to the approval of new animal drugs.

Second, disclosure of the requested information would also satisfy the secondary prerequisite of a fee waiver request in that HSUS does not have a "commercial interest that would be furthered by the requested disclosure." 40 C.F.R. § 2.107(l)(1). HSUS is a nonprofit organization whose mission is to "create a humane and sustainable world for all animals, including people, through education [and] advocacy." As a 501(c)(3) non-profit organization, HSUS does not have a commercial, trade, or profit interest in the information requested.

Therefore, HSUS requests that the NPS apply its discretion in waiving all or some of the fees accrued as a result of this records request. If the NPS decides not the waive fees expected to accrue as a result of this request or if it decides to waive only a portion of related fees, please provide me with a written accounting of the approximate costs to HSUS for responding to this public records request.

Thank you for your time and attention to this matter. Please do not hesitate to contact me at (202) 676-2354 or hconnor@humanesociety.org if you need any further information or require any clarification regarding this request.

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Sincerely,

/s/ Hannah Connor

Hannah Connor, Staff Attorney
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